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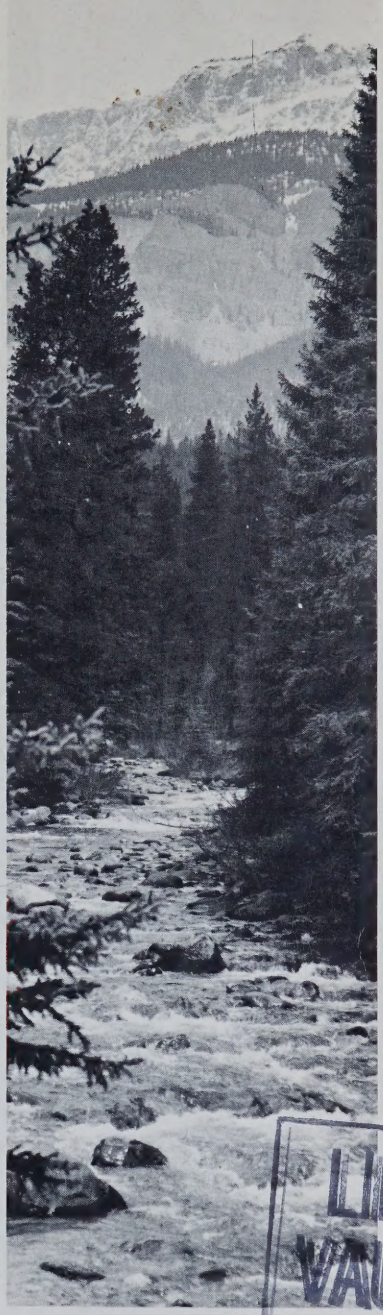

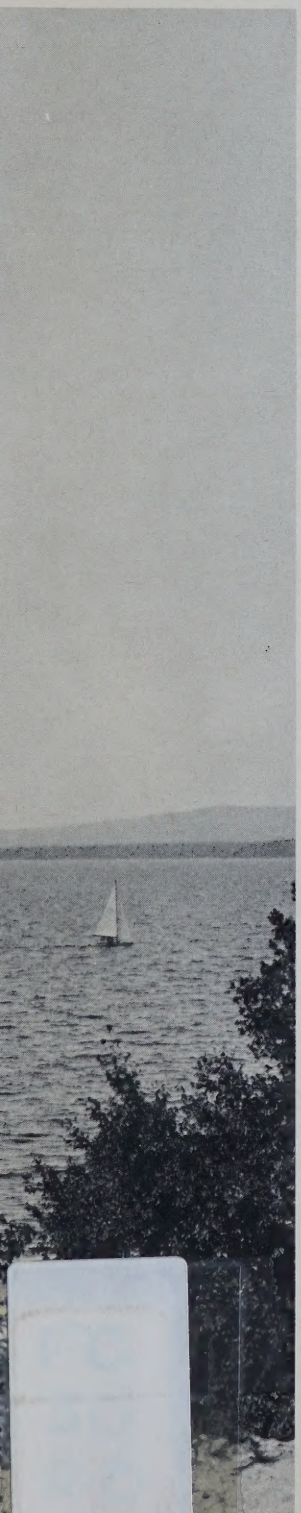

alberta department of the environment

HON. W. J. YURKO, MINISTER

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The Government of Alberta
Position Statement
on
National Parks Policy
May 15, 1972

INTERDEPARTMENTAL
PLANNING DIVISION

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The Government of Alberta
Position Statement
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The Government of Alberta

Position Statement

on

National Parks Policy

The Alberta Department of the Environment
Interdepartmental Planning Division
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May 15, 1972

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ACKNOWLEDGEMENTS

This position statement of the Government of Alberta on National Parks Policy was initiated by the Minister of the Environment, the Honourable W. J. Yurko, in consultation with the Honourable R. W. Dowling, Minister without Portfolio in charge of Tourism.

The position statement was developed by the Interdepartmental Planning Division of the Department of the Environment on a team basis with the following individuals providing inputs: Mr. C. Drabble, Mr. D. G. Harrington, Mr. R. Karoles, Mr. K. R. Smith, and Mr. H. W. Thiessen.

I SUMMARY

The purpose of this position statement is to advance the views of the Government of Alberta concerning proposed National Parks policy, particularly as it relates to the National Parks within the Province of Alberta.

It is the position of the Province of Alberta that the Federal Government has not given adequate recognition of the critical interdependencies which exist between the Province and the Parks in their planning and policy proposals for the National Parks. Ecological, social, economic interdependencies between the Parks and the Province have been ignored and the proposals of the Federal Government fail to take into consideration the fact that most Provincial laws are applicable within Park boundaries. Particularly relevant are the laws of Alberta pertaining to pollution control, environmental management, highways, local government, labor, development control, public health, social development, education and workmans compensation.

Alberta recognizes the need for a comprehensive planning approach to the management of the National Parks which explicitly recognizes the interdependencies between the Parks and the Province. Therefore, it is the policy of the Province to initiate a comprehensive planning approach to the management of the National Parks in Alberta through the establishment of a legally sanctioned, joint Federal-Provincial administrative structure responsible for all planning, management and administration of the National Parks in Alberta.

The Province generally supports the retention and refurbishment of the present Lake Louise townsite in a manner consistent with National

Park purposes and the ecological capacity of the area. However, the assessment of the proposals scale, nature, location and the implications of interdependencies between the proposal, Banff National Park and the Province have not been adequate. Therefore, the Province adopts the position that the approval of the Village Lake Louise proposal will be premature so long as these assessments remain incomplete.

II INTRODUCTION

The purpose of this position statement is to advance the views of the Government of Alberta concerning proposed National Parks Policy, particularly as it relates to the National Parks within the Province of Alberta.

The statement is divided into three sections: the first section briefly reviews the development of the National Parks Policy and lays the background for the position of Alberta on National Parks; the second develops the position of the Province with respect to National Parks; and the third section provides a specific position statement concerning the Village Lake Louise proposal.

III SITUATION STATEMENT

Beginning in September, 1964 with the Honourable Arthur Laing's statement in the House of Commons on National Parks Policy, the Federal Government has officially and explicitly recognized the basic need for a clarification of the policy guiding the implementation of the intent of The National Parks Act. In recent years the Federal Government has intensified its efforts to define policy guiding the implementation and administration of the Act. These recent efforts are exemplified in a

National Parks Policy Statement and in specific master plan proposals developed for Jasper, Banff, Kootenay, and Yoho National Parks. These new efforts have involved Canadians in the development of policy guidelines through the extensive use of public hearings, the most recent in Alberta being conducted in connection with the Village Lake Louise Proposal.

Alberta shares with the Federal Government the view that there is a definite and urgent need for refinement in policy guiding implementation and administration of the intent of The National Parks Act. The Federal Government is to be commended for the initiative and efforts it has directed toward the resolution of this problem confronting Canadians. However, Alberta has reviewed the proposals of the Federal Government concerning the National Parks Policy and has found them deficient in taking into consideration the interests of the provinces.

In this respect Alberta is unique relative to the other Provinces of Canada. Nearly 10% of the geographical area of the Province is included within the 5 National Parks. Two major Alberta towns are located within the Parks boundaries. Our 3 largest cities are within 2 hours driving distance of three of the Parks. Half of the road and rail linkages with British Columbia and the foreign Pacific Rim markets bisect 2 of the Parks. The headwaters of the Saskatchewan-Nelson Basin, which serves the domestic, municipal and industrial requirements of the major urban areas of Alberta, Saskatchewan and Manitoba, rise in the mountain National Parks. Furthermore, these waters in addition to that part of the McKenzie Basin rising in the Parks, are the waters required for the continuous development of Alberta's energy, processing and man-

ufacturing industries. In addition, the tourist potential of Canada's most scenicly diverse Province, Alberta, with its prairies, park lands, foothills, mountains, lakes and northern tundra, is also the location of Canada's most internationally known National Parks - Banff and Jasper.

The demands for facilities within the Parks in 1930 when The National Parks Act was passed were few and the emphasis on the Parks administration was on the preservation of the unique beauty and magnificance of the Parks. With few developments taking place within the Parks there was also little need for consultation with the Province on National Parks Policy. Liaison between Parks administration and the Province mainly centered about natural resource issues, such as coordinating fire suppression capabilities.

The demands for facilities within the Parks have gradually accelerated since 1930 to the point where commercial developments the magnitude of the Village Lake Louise proposal are now considered economically viable.

Also during the period between 1930 and 1972 the emphasis in the Parks administration has shifted significantly from a position of preservation to one of use and development with minimal deterioration in the environment. Consequently the gradual intensification of land use within the Parks has also intensified the complex and intricate ecological, economic, legal and social interdependencies which have always existed between the Province and the National Parks.

These factors have all combined to create a clear need for giving definite recognition of the interests of the Province in National Parks Policy. However, the Federal proposals which have been made fail to

take into consideration the intricate interdependencies that exist between the Province and the National Parks. This is a serious and highly significant deficiency in the proposals from the Federal Government.

A. Environmental, Social, and Economic Interdependencies

The Federal Government has not addressed itself to the environmental, social, and economic interdependencies between the Province and the National Parks situated within its borders. For example, the proposed policies do not specifically recognize the mutual dependency between the renewable resource policies adopted by the Province in the Foothills and the renewable resource policies adopted in the National Parks, particularly with respect to wildlife management, forestry management, watershed protection, pollution control and land use zoning.

The trends for increased demands for tourist facilities to be located within the National Parks, combined with their finite ecological capacity to accommodate land use intensification consistent with Park purposes, will quickly lead to the establishment of definite restrictions on Park use. This will shift demands for the location of facilities to the Foothills area outside the Parks. \The mutually reinforcing impacts of these trends have not been given explicit recognition in the planning and policy proposals of the Federal Government.

Similarly, future development of the tourist industry within the Province is highly dependent upon, and in turn affects National Parks Policy. The Federal Government has made no attempts to assess their master plan proposals in light of the potential development of visitor service centers in the Canmore Corridor, the Crowsnest Pass or on the

Bighorn Dam Reservoir. There has not been adequate consideration of the economic interdependencies of the tourist industries in the Province and within the Parks.

To labor the environmental, social and economic interdependencies between the Province and the National Parks is unnecessary. The examples are too numerous and obvious to warrant further elaboration and yet they have been ignored in the policy and planning proposals of the Federal Government. However, the interdependencies between the laws of the Province of Alberta and the Federal Government with respect to National Parks are not as obvious and well known and because of their importance they do warrant a detailed examination.

B. Interdependencies in Law

The interdependencies between the laws of the Government of Alberta and the Federal Government with respect to National Parks is expressly dealt with in The Alberta Natural Resources Act, being Chapter 3 of the Statutes of Canada, 1930. This Act ratified and approved an agreement dated the 14th day of December, 1929 and made between the Government of the Dominion and the Government of the Province.

Paragraph 15 of that Agreement provides that unless Federal laws applicable to National Parks situated in Alberta are specifically different from those of the Province, then the laws of the Province apply to National Parks situated within Alberta. The paragraph reads as follows:

> "15. The Parliament of Canada shall have exclusive legislative jurisdiction within the whole area included within the outer boundaries of each of the said parks notwithstanding that portions of such area may not form part of the park proper, the laws in force within the said area shall continue in force only until changed by

> the Parliament of Canada or under its authority, provided, however, that all laws of the Province now or hereafter in force which are not repugnant to any law or regulation made applicable within the said area by or under the authority of the Parliament of Canada, shall extend to and enforceable within the same..."

Therefore, it becomes critical to determine the status of Federal law applicable to the National Parks.

The National Parks Act states:

> "4. The National Parks of Canada are hereby dedicated to the people of Canada for their benefit, education, and enjoyment, subject to this Act and the regulations and the National Parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations."

In addition to this general statement of purposes, the Act also makes provisions for the establishment of parks, parks administration, park lands, regulations, penalties and procedures, and historical sites.

Section 7 of The National Parks Act provides for regulations governing:

- Management of Parks
- Management of Flora
- Animal Life
- Fish Life
- Fire Protection General
- Fire Protection Railway Companies
- Leases
- Leases outside of Townsites and Subdivisions
- Permits - Grazing, Sand and Gravel, Timber, Water, Mineral Water, Campgrounds
- Utilities
- Roads and Ways
- Buildings and Property
- Businesses, Amusements, etc.
- Conduct
- Sanitary Measures
- Health and Welfare Services
- Hospital Services
- Taxes for Health, Welfare, and Hospital Services
- Taxes on Land
- Tax Recovery
- Nuisances
- Survey, Plans, and Designation of Townsites, etc.
- Plots in Cemeteries

- Telephone, Telegraph, Electrical and Natural Gas Services
- Hydro and Electric Power
- Water Supply to Municipalities outside Parks
- Water Supply to Individuals outside Parks

The National Parks Act specifies those areas in which the Federal Government has a power to pass laws generally dealing with the management of the Parks, but upon examination of the regulations that have been passed, one is struck by the very precise way in which the Federal Government has exercised its power. The Governor in Council, under section 7 of the Act, has chosen to make regulations governing the following very specific aspects of Parks management:

1. The levying of a tax upon residents of National Parks in Alberta for health and welfare services.

2. Fishing in the National Parks of Canada.

3. Theatres and the exhibition of motion pictures (licences, projection room, rest rooms, projectionists, etc.)

4. The removal of garbage (collection, rates for collection services).

5. The removal of ice from waters within the National Parks (permits).

6. Game in the National Parks other than Wood Buffalo Park (general, cats and dogs, firearms).

7. Forest protection in National Parks (suppression officers, touring, or work parties).

8. The installation, control and management of natural gas (licences, permits, gas piping, service entry and meter location, meters in commercial and industrial establishments, inspection, appliances and devices, venting, lighting, turning off gas).

9. Cutting and removal of timber in the National Parks (timber permits, dead timber permits, green timber permits, licence timber berths, dues chargeable).

10. Historical parks - schedules of areas established.

11. The grazing of livestock (grazing permits, diseased livestock, impounding of livestock, etc.)

12. The preservation of game in Wood Buffalo National Park (application, exemption, licence to hunt game and to take eggs and nests, bag limits, possession, etc.)

13. The commercial use of forest telephone lines (schedule of charges, conditions of use, etc.)

14. The licencing of businesses, callings, trades or occupations within the National Parks.

15. Covering electrical installations in the National Parks (electrical code, permits, inspection, etc.)

16. The construction and maintenance of buildings (building code, sewer systems, etc.)

17. The control and management of waterworks systems for townsites and subdivisions (distribution systems, rates, etc.)

18. Covering highway traffic in National Parks (provincial licences, chauffeurs licence, dimensions of vehicles, trailers, traffic signs and devices, parking, speed, etc.)

19. The control and management of sewer systems in the Waterton Lakes National Park.

20. The control and management of the waterworks system in Waterton Lakes National Park.

21. General control and management of National Parks, (leases and licences, preservation of property, prevention of nuisances, trail trips and guiding, sandstone and gravel, hay, water, snow removal in townsites, sale of liquor, hours of operation for facilities operated by the Government of Canada).

The implication for the Province of this very precise exercising of powers by the Federal Government is that it means most Provincial laws are applicable within the Parks. With the exceptions of the

above specific areas of jurisdiction of the Government of Canada, any laws in force in Alberta which are not repugnant to those Federal laws are applicable within the National Parks.

As an example of the applicability of the regulations pursuant to The National Parks Act to matters dealt with by the Province attention is directed to the regulations governing the licencing of vehicles. Section 7 of The National Parks Act, by section 7 (m), provides for regulations controlling traffic and the levying of licence fees in respect thereof. Item 18 of the regulations has reference to "highway traffic". These are set out on pages 2425 of S.O.R., 1955 Consolidation, P.C. 1954-1849. Dealing with licencing of vehicles in the Parks, the regulations provide:

> "3. No person shall operate a vehicle on a highway in a park unless
>
> (a) he holds all licences and permits that he is, by the laws of the Province in which the highway is situated, required to hold in order to operate the vehicle in that Province, and
>
> (b) the vehicle is registered and equipped as required by the laws of the Province in which the highway is situated.
>
> "4.(1) No person shall operate a vehicle on a highway otherwise than in accordance with the laws of the Province in which the highway is situated.
>
> (2) In this section the expression 'laws of the province' do not include laws that are inconsistent with or repugnant to any provisions of these regulations."

By the Regulations (P.C. 1954-1849) the Provincial licence applies. Similar designations exist in the Regulations pursuant to The National Parks Act with respect to: Provincial Board of Censors,

Provincial licencing of projectionists, Provincial health regulations respecting house trailers, and Provincial control of the sale of liquor.

Examples of other statutes of the Province which are generally applicable within the National Parks are many, but some of the more significant are:

- The Clean Air Act
- The Clean Water Act
- The Highway Traffic Act
- The Improvement Districts Act
- The Alberta Labor Act
- The Municipal Government Act
- The Planning Act
- The Public Health Act
- The School Act
- The Social Development Act
- The Workmens Compensation Act

There have been several court decisions supporting the applicability of certain Alberta statutes within the Parks, including Alberta's Highway Traffic and Minimum Wage laws.

The point is that unless Federal laws make provisions different from those of Alberta laws, the Alberta laws apply to the National Parks situated within the Province.

This interdependence between the laws of the Government of Alberta and the laws of the Government of Canada with respect to National Parks has become more and more critical as the Parks have developed. The significance of this interdependence becomes accentuated as further developments such as the Village Lake Louise Proposal are being considered for the future.

However, this critical interdependence between the jurisdictions of the Government of Alberta and the Government of Canada with respect to National Parks has not been given recognition in any of the policy

proposals advanced by the Federal Government to date. This in itself is a serious and highly significant deficiency in the proposals of the Federal Government.

In summary it is the position of the Province of Alberta that the Federal Government has not given adequate recognition in their planning and policy proposals regarding National Parks of the critical interdependencies which exist between the Provinces and the Parks.

IV PROVINCIAL POLICY REGARDING NATIONAL PARKS

A. Comprehensive Management Approach

It is Alberta's policy to approach all developments within the Province, including those in the National Parks, from a comprehensive and total management perspective which takes into consideration all critical interdependencies between various levels of government. Alberta's view is that a comprehensive planning approach to the National Parks which gives explicit recognition to the interdependencies between the Province and the Parks will facilitate the recognition of and response to the interests and needs of Albertan's and all Canadians.

B. Joint Federal-Provincial Management Structure

In recognizing the need for a comprehensive planning approach to the National Parks, Alberta also recognizes a range of administrative alternatives for implementation. Under current circumstances the Province feels that at this time the most realistic approach to comprehensive planning in the Parks is the development of a legally sanctioned, joint Federal-Provincial management structure to deal with all aspects of the planning, management and administration of the National Parks in Alberta.

It is, therefore, the policy of the Province to initiate a comprehensive planning approach to the development of the National Parks in Alberta through the establishment of a legally sanctioned, joint Federal-Provincial management structure responsible for all planning, management, and administration of the National Parks in Alberta.

To document Alberta's position on all those matters in which Alberta has an interest concerning National Parks administration would be a very lengthy undertaking, a task that would undoubtedly be a key responsibility of a joint management structure set up for the total management of National Parks in Alberta.

Assuming the establishment of a joint management structure, it is of interest to briefly examine what Alberta's position might be on certain issues such as co-ordinated natural resource and environmental management, tourist service centers and integrated transportation facilities. The intent is not to definitively document Alberta's position, but rather to indicate by way of example what Alberta's position might be. The examples developed here are based on the application of current policy to the National Parks.

C. Co-ordinated Environmental and Natural Resource Management

Environmental interdependencies do not recognize artificial territorial demarcations such as those defining the National Parks boundaries. Along Park boundaries there are many complex interdependencies between renewable and non-renewable resource uses and environmental quality. For example, resource developments as strip mining, oil and gas exploration, quarrying, grazing and timber harvesting have significant impacts on the wildlife populations and

migrations, watershed protection, and water quality and quantity. These ecological interdependencies necessitate co-ordinated natural resource and environmental management along Park boundaries.

With respect to co-ordinated environmental and natural resource management outside, along, and within National Park boundaries, the following policies of the Province are relevant:

1. It is the policy of Alberta to co-ordinate the management and protection of flora and fauna from disease and fire along the Parks boundaries.

2. It is the policy of Alberta to co-ordinate, within a joint management context, the management of the Rocky Mountain headwaters for the benefit of all Canadians.

3. As a policy matter it is the position of Alberta that the administration of natural resources is a Provincial responsibility and the development of technical expertise for natural resource administration within the Parks should be centered within the Provincial civil service.

4. It is the policy of Alberta to encourage the integration of its fish, water, wildlife, forest and outdoor recreation management plans with those of the Federal Government within the Parks.

5. It is the policy of Alberta to develop and maintain a land capability inventory of all renewable resources within the Province, including the National Parks.

6. It is the policy of Alberta to encourage the integration of all land use plans having coterminous boundaries within the Province, including those outside, along, and within National Park boundaries. There is an urgent need to integrate the proposed master plans for Jasper and Banff National Parks with the detailed land use studies of the Foothills, the Hinton-Yellowhead Corridor, the Kakwa Area, the Canmore-Bow Valley Corridor, and the Crowsnest Pass.

7. It is the policy of Alberta to protect the ecological balance along National Park boundaries by establishing wilderness areas adjacent to Park boundaries with suitable controlled buffer zones.

8. It is the policy of Alberta to require environmental

impact studies prior to developments that may have a significant impact on the environment in Alberta, including developments within the National Parks.

9. It is the policy of Alberta to consolidate the overall responsibility for pollution control matters in the Province, including the National Parks, with the Department of the Environment.

10. It is the policy of Alberta to require all agencies granting approvals for development within the Province, including the National Parks, to refer all applications having a significant environmental impact to the Department of the Environment for approval of the application as it affects matters pertaining to the environment.

11. It is the policy of Alberta to require a prior planning of all surface disturbances within Alberta, including the National Parks, so as to minimize surface disturbances and ensure adequate reclamation.

12. It is the policy of Alberta to place the responsibility for providing proof against irreparable environmental degradation upon the initiator of developments within the Parks.

D. Tourist Service Centers

Demands for outdoor recreational experiences in a scenic setting are accelerating with increasing affluence, leisure and mobility. The finite capacity of the National Parks to meet these demands consistent with Park purposes will soon be exhausted. The Foothills of Alberta can accommodate those demands for land use which are not compatible with Park purposes. Careful planning of land use within and outside the National Parks can lead to developments which will complement use compatible with both areas. Large scale tourist centers will have to be developed outside the Parks and will be specifically designed to meet the needs of tourists whose demands for recreation are not compatible with Park purposes, such as hunting, downhill and water skiing, skidooing, golfing, etc.

With respect to tourist service centers within the Province, the following policies of the Province are relevant:

1. It is the policy of Alberta to integrate land uses within and outside the National Parks to ensure uses compatible with the purposes of each area.

2. It is the policy of Alberta to encourage the development of large scale tourist service centers in the Foothills of the Province. It is also provincial policy to discourage the development within the National Parks of large scale tourist centers incompatible with park purposes.

3. It is the policy of Alberta to support the retention and refurbishment of existing townsites in Alberta, including the National Parks, as tourist service centers as opposed to the creation of new towns and service centers.

4. It is the policy of Alberta to develop existing townsites as tourist service centers on a planned basis; taking into consideration the preferred land uses within the region, the ecological capacity of the region to absorb intensification of land use, the infra structure requirements, and demands for public utilities.

E. Integrated Transportation Facilities

Just as National Park boundaries have no significance for migrating wildlife, the boundaries also have little relevance for the travelling public. Consequently, providing efficient and convenient transportation facilities between jurisdictions requires a comprehensive and co-ordinated approach to the planning, construction, maintenance, and management of transportation facilities. The desirability of maintaining consistency and the quality, capacity and laws applicable to transportation facilities in adjoining jurisdictions has long been recognized. Similarly, the

need for co-ordinating construction and maintenance schedules such as snow removal is recognized. Further, the advantages of integrating construction and maintenance capabilities are often substantial. Therefore, the Province supports a co-ordinated and integrated approach to transportation facilities serving the National Parks within Alberta.

The following provincial policies are relevant to transportation facilities serving the National Parks in Alberta:

1. It is the policy of Alberta to co-ordinate the planning, construction, maintenance and management of transportation facilities within the Province, including those serving the National Parks.

2. In planning transportation facilities in the Foothills, it is the policy of Alberta to give explicit recognition to the impact such facilities will have on the National Parks.

3. It is the policy of Alberta that all highway traffic laws applicable within the Province be consistent, including those applicable to the National Parks.

4. It is the policy of the Province to encourage the integration of the maintenance capability of the National Parks with that of the Province.

5. It is the policy of the Province to ensure consistency in the quality and capacity of transportation facilities both within and adjacent to the National Parks.

V VILLAGE LAKE LOUISE PROPOSAL

The Province generally supports the retention and the refurbishment of the present Lake Louise townsite in a manner consistent with the National Park purposes and the ecological capacity of the area.

It is extremely difficult to assess the Village Lake Louise

proposal since the implications of the ecological, economic, social and legal interdependencies between the proposal, Banff National Park and the Province have not been considered. It is on this basis that the Province adopts the view that the approval of the Village Lake Louise proposal at this time would be clearly premature.

The Province adopts the position that a legally sanctioned, joint Federal-Provincial administrative structure must be established to consider the Village Lake Louise proposal, and all similar proposals of the future, within a context of the overall management of the National Parks which gives explicit recognition to the interdependencies between the responsibilities of the Province and the Federal Government.

With specific reference to the Village Lake Louise proposal, the following statements indicate precisely why the Province considers the proposal premature:

With respect to the scale of the development, the Province generally favors the development of such large scale facilities outside the National Parks. Where developments are to take place within the Parks, the scale of development should be limited by the ecological capacity of the area to absorb intensification of land use. The Village Lake Louise proposal is premature since no attempts have been made to determine the ecological capacity of the area to absorb the projected land use intensification.

With respect to the nature of the proposed development, the position of the Province is that the nature of the developments within the National Parks must be consistent with National Park

purposes. The Village Lake Louise proposal entails commercial activities which are not compatible with park purposes. The proposal has inherently failed to consider the Foothills as a substitute location for tourist service centers and land uses which cannot be accommodated within park purposes. Failure to consider alternative site locations point to the premature nature of the proposal.

With respect to location, the absence of a detailed land capability inventory of Park resources prevents the reasonable assessment of the desirability of the proposed location of Village Lake Louise in terms of alternative sites which may have a higher ecological capacity to absorb land use intensification.

Finally, the proposal fails to assess the impact of the development on the infra structure and public facilities which are the responsibility of the Province under current law.

In view of the Province, the Village Lake Louise proposal is premature in that the scale, nature, location and interdependencies of the proposal have not been assessed in the terms of criteria which take into consideration the interests of the Province.